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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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4 UNITED STATES OF AMERICA, New York, N.Y.
5 v. 20 Cr. 160 (MKV)

6 ERICA GARCIA,
7 MICHAEL TANNUZO,
LISA GIANNELLI,
JASON SERVIS,
ALEXANDER CHAN,

8 Defendants.

9 -----x
10 February 24, 2022
11 11:05 a.m.

12 Before:

13 HON. MARY KAY VYSKOCIL,

14 U.S. District Judge
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1 APPEARANCES

2 DAMIAN WILLIAMS
3 United States Attorney for the
Southern District of New York
4 BY: ANDEN F. CHOW
Assistant United States Attorney

5 COLSON LAW, PLLC
Attorneys for Defendant Garcia
6 BY: DEBORAH A. COLSON

7 THE LAW OFFICES OF DONALD T. ROLLOCK
Attorneys for Defendant Tannuzzo
8 BY: DONALD T. ROLLOCK

9 FASULO, BRAVERMAN & DiMAGGIO, LLP
Attorneys for Defendant Giannelli
10 BY: LOUIS V. FASULO

11 GLAVIN PLLC
Attorneys for Defendant Servis
12 BY: RITA M. GLAVIN

13 FEDERAL DEFENDERS OF NEW YORK
Attorneys for Defendant Chan
14 BY: ROBERT M. BAUM

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1 (Case called)

2 THE DEPUTY CLERK: Counsel, starting with the
3 government, please state your name for the record.

4 MR. CHOW: Anden Chow for the government. Good
5 morning, your Honor.

6 THE COURT: Good morning, Mr. Chow.

7 THE DEPUTY CLERK: I will call the defendant's name
8 and counsel please state your name. Erica Garcia.

9 MS. COLSON: Good morning, your Honor. Deborah Colson
10 for Ms. Garcia.

11 THE COURT: Good morning, Ms. Colson.

12 THE DEPUTY CLERK: Michael Tannuzzo?

13 MR. ROLLOCK: Good morning, Judge. Donald Rollock for
14 Mr. Tannuzzo.

15 THE DEPUTY CLERK: Lisa Giannelli.

16 MR. FASULO: Good morning, Judge. Louis Fasulo for
17 Ms. Giannelli. Good to see you.

18 THE COURT: Good morning, Mr. Fasulo. Nice to see you
19 in good health.

20 THE DEPUTY CLERK: Jason Servis?

21 MS. GLAVIN: Good morning, your Honor. Rita Glavin
22 for Jason Servis.

23 THE COURT: Good morning, Ms. Glavin. Nice to see you
24 as well.

25 THE DEPUTY CLERK: And Alexander Chan.

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1 MR. BAUM: Good morning, your Honor. Robert M. Baum
2 on behalf of Dr. Chan.

3 THE COURT: Mr. Baum, good to see you as well.

4 Let me state a few things for the record before we get
5 going.

6 I have received from counsel for each of the five
7 remaining defendants a request that their attendance today be
8 excused. It is my understanding that attendance is not
9 required, that there probably isn't even a right to attendance
10 but, in any event, each of those requests for the defendants
11 themselves to be excused from attendance today is granted.

12 Next, I received a request from the discovery
13 coordinator, Emma Greenwood, to be excused from attending
14 today. I have granted that request as well. She had sent me a
15 report back in January updating, as she does periodically, the
16 status of discovery in this matter and she reported, in advance
17 of today's conference, that there was nothing new for her to
18 report on today.

19 MR. FASULO: Judge, just on that, just for the record?

20 THE COURT: Yes.

21 MR. FASULO: She has also been in contact with me and
22 other defense counsel via letter as to the status and
23 cumulative discovery that she has gotten and where she was at,
24 so we have had communications with her as of yesterday, just
25 for the record.

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1 THE COURT: Good.

2 So, Mr. Chow, is there anything for you to update with
3 regard to discovery? I assume discovery is complete at this
4 point.

5 MR. CHOW: Not on the topic of discovery, no updates.

6 THE COURT: No updates. Is discovery complete?

7 MR. CHOW: Yes, your Honor.

8 THE COURT: All right, so let's talk then about where
9 we are at in terms of scheduling. As I think you all know, we
10 had the trial of Dr. Fishman, there was a mistrial with respect
11 to Ms. Giannelli who was supposed to be tried during that same
12 group 1 of the trial. We have a backup slot; I had advised the
13 group 2 defendants that we have a backup slot of March 21st.
14 It is the Court's view that that slot is where the Giannelli
15 trial should take place before we get to the group 2 people but
16 I am open to hearing from all of you, but I did in the meantime
17 receive a letter from the government telling me that you,
18 Mr. Fasulo, were unavailable for trial on the 21st because you
19 had a trial before Judge Caproni on the 29th. It seems to me,
20 from looking at the calendar, that you're the number two backup
21 trial in front of Judge Caproni as well on the 29th. So it is
22 not clear to me why, if my slot clears on the 21st, a backup
23 slot in front of Judge Caproni makes you unavailable.

24 So why can't we proceed with Ms. Giannelli on the 21st
25 if that slot opens up?

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1 MR. FASULO: So my understanding was with Judge
2 Caproni was that when we scheduled our trial for the January
3 date that I firmly said that date was in place, I made that
4 representation in front of Judge Caproni at the time and so she
5 said that we are scheduled to put it on -- she ordered the
6 trial for that day. I am willing to work with --

7 THE COURT: But she didn't order the trial, you are a
8 backup slot, right? And as I understand it there are 28
9 defendants in that case and she said the first two would be
10 tried.

11 MR. FASULO: There is one left.

12 THE COURT: Only one left?

13 MR. FASULO: Yes.

14 THE COURT: OK. And that's you.

15 MR. FASULO: That's me.

16 THE COURT: Or your client, not you.

17 MR. FASULO: That's my client.

18 So obviously we are in a position where we are trying
19 the case. I will be on trial on March, I don't have a problem
20 with that, Judge. I do think because of the scheduling, were
21 so many defendants who we were scheduled for that case in
22 anticipation of finishing this case, so I do feel and an
23 obligation to move that case and the other issue in that case
24 different than this case --

25 THE COURT: Is that defendant incarcerated?

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1 MR. FASULO: Yes, my client is incarcerated, so that's
2 why I let the government know that that case is still moving
3 on. If it resolves itself I will of course let the Court know
4 immediately if there is some resolution between now and March
5 and I will do whatever the Court wants. I mean, we are ready.
6 My team is ready.

7 THE COURT: You were ready.

8 MR. FASULO: I know the government has some other
9 witnesses but we will be ready and so it is not an issue. But
10 I didn't want to be in a position where I have an in-defendant
11 and he is waiting to either have that case resolved --
12 everybody else, 28 people pled and he has not -- to jeopardize
13 his incarceration any further on pretrial detention until the
14 verdict comes out and we see where he ends up.

15 THE COURT: Do you know the case number on that case,
16 offhand?

17 MR. FASULO: I just turned my phone off but I will
18 pull it up in a moment, Judge. Judge, while I am looking, can
19 I just ask one thing?

20 THE COURT: Sure.

21 MR. FASULO: Do we know when we will know if that
22 backup spot versus another backup spot will__.

23 THE COURT: No. The only way I know is when the
24 people involved in the case -- I think it is Judge Rakoff who
25 is ahead of us.

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1 MR. FASULO: I think that's with Bobbi Sternheim, I
2 think that case is going.

3 THE COURT: Yes. I mean, look. Every indication that
4 we have is that we are still the backup, and unless and until I
5 get told that his case has pled out -- and I think there are
6 two defendants in his case, although I am not a hundred percent
7 sure about that -- so at best it is a backup in any event.
8 But, look. This is where I'm at. I am willing, if the spot
9 clears up, I am willing to try whatever defendant's case is
10 prepared to move forward on the 21st. I understand -- and I'm
11 going to jump ahead a little bit on our calendar. I understand
12 that Mr. Tannuzzo's counsel has said he objects to the
13 remaining four defendants other than Ms. Giannelli being tried
14 together. Ms. Glavin you are still considering whether you
15 wanted to move for severance. I think those motions are due
16 next week.

17 MS. GLAVIN: I think the government can give you an
18 update on their position about that but we believe our motions
19 are moot, based on the government's position.

20 THE COURT: OK. I will hear from the government then.
21 I was going to tell you what I was going to do but let me hear
22 from the government.

23 MR. CHOW: Your Honor, on February 14th we sent an
24 e-mail to defense counsel advising the counsel for Garcia,
25 Tannuzzo, Servis, and Chan, that we would not object to a

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1 severance -- or not necessarily a severance but trying those
2 remaining four defendants in two separate groups, in particular
3 Tannuzzo and Garcia together, and then Servis and Chan
4 together.

5 The government's position is not based on any legal
6 reason why it believes severance is appropriate but rather,
7 given the constraints currently in the court house with regard
8 to the COVID protocol and the COVID setup, the likelihood of
9 everybody fitting into a courtroom at the same time is
10 unlikely. Also, the risk that having just gotten off of a
11 trial of a potential mistrial and the complications due to
12 that, those considerations weighed in favor of the government
13 representing to defense counsel that it would not object to a
14 split two and two in the way that was proposed by the
15 government. We did advise defense counsel that that if they
16 further wanted to sever amongst those two pairings we would
17 object to that, but splitting them into two separate trial
18 groups we would not object to.

19 THE COURT: Frankly, that's what I was going to tell
20 you I am inclined to do. Frankly, if the March 21st spot opens
21 up and doesn't work for Mr. Fasulo, as I just said, any
22 defendant who wishes individually or in these pairings to go
23 forward on the 21st, I am prepared to move forward with that
24 trial. You would have to obviously talk to the government
25 about the pretrial deadlines for exchange of information and

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1 all of that, but I would grant a severance if it is only one
2 person who wants to go forward or I will try two -- either one
3 of those two pairings on the 21st if Ms. Giannelli's trial
4 cannot go forward.

5 With regard to severance, anyway, what I was going to
6 say to you, Ms. Glavin, you were at our last conference still
7 considering, I was going to tell you that you don't need to
8 file a motion because I am going to sever in those pairings.
9 Now, I guess I should ask, Mr. Tannuzzo, do you have any
10 objection to trying the case together with Ms. Garcia?

11 MR. ROLLOCK: I had responded to the e-mails, your
12 Honor, and I agree to that.

13 THE COURT: And Ms. Garcia's counsel is you,
14 Ms. Colson?

15 MS. COLSON: Yes. I have no objection and I let the
16 government know.

17 THE COURT: So phase 3, we don't have a 2 anymore, we
18 have a 1A, no 2. Phase 3 or group 3 will be Garcia and
19 Tannuzzo, and then phase 4 the government is proposing and
20 previously was agreed that Servis and Chan would be tried
21 together.

22 Ms. Glavin, are you still OK with that?

23 MS. GLAVIN: Yes, your Honor.

24 THE COURT: Mr. Baum?

25 MR. BAUM: Yes, I'm OK with that, Judge.

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1 THE COURT: So at a minimum we have -- well, at a
2 maximum we have three trials then that we are talking about
3 scheduling.

4 MR. FASULO: Judge, my case is U.S. v. Velez, it is 19
5 criminal 862, Judge Caproni.

6 THE COURT: I'm sorry?

7 MR. FASULO: Judge Caproni.

8 THE COURT: So in addition to the fact that that -- 19
9 crim what number?

10 THE DEPUTY CLERK: 862; they moved it a day to the
11 28th.

12 THE COURT: OK. I was going to say what is on for the
13 29th, it wasn't bolded in red which is what we are using for
14 in-defendants.

15 So in addition to the fact that the defendant in that
16 case is incarcerated, it also is a two-year -- one year older
17 case than our case so you will let me know if it resolves
18 itself and then I am prepared to move forward on the 21st, if
19 that slot opens up to us. If any of the other remaining
20 defendants is prepared to move forward on the 21st, please let
21 the Court know that, otherwise we will move forward with
22 Ms. Giannelli at the first slot that we are able to obtain in
23 the second quarter of the year. We will move forward with the
24 previously called group 3 of Garcia and Tannuzzo in the second
25 slot which I have requested for Q2 of this year.

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1 As you know, we are still doing central calendaring.
2 I have requested two trial slots for the second quarter. The
3 calendar is not yet done, I don't know what dates we will be
4 assigned but that's how they will be allocated.

5 And then, Ms. Glavin, you had told me about conflicts
6 that you have. Where do you stand?

7 MS. GLAVIN: So, your Honor, I am scheduled to begin a
8 jury trial in front of Judge Stein on March 7th, so a week from
9 Monday we are starting and that's going to be a lengthy trial,
10 I think it is 20 to 25 witnesses, it is an incarcerated
11 defendant.

12 I also have a trial in New York State Supreme Court, I
13 represent Allen Weisselberg, who is the former CFO in the Trump
14 organization. That trial, the Judge has told us to clear
15 August and September. I expect that we are going to have some
16 lengthy hearings between my March trial and the
17 August/September trial. The case is, so your Honor is aware,
18 the discovery is voluminous; words hard for me to describe. It
19 is a complicated tax case and that is going to be taking all of
20 my time once I finish this trial.

21 With respect -- and I have discussed this with
22 Mr. Servis, but if the trial completes sometime in September, I
23 am going to need 90 days to get back up to speed with respect
24 to Mr. Servis. For me to be effective, this case, as your
25 Honor knows this is also voluminous discovery; and I am a solo

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1 practitioner now, as the Court may be aware.

2 THE COURT: I am.

3 MS. GLAVIN: And so for me to --

4 THE COURT: Is Mr. Considine no longer counsel,
5 though?

6 MS. GLAVIN: He is less involved, your Honor. He has
7 involvement in the case but you can understand that Mr. Servis
8 does not have endless amounts of money so there is an issue
9 there to be able to afford two law firms. But Mr. Servis hired
10 me to try the case and I went to my dear friend, law partner,
11 who I think the world of to assist me and he can assist me as
12 he can but the situation has materially changed since I left my
13 law firm.

14 THE COURT: I understand. OK, but so what are you
15 telling me? Are you talking about next year?

16 MS. GLAVIN: I am asking for January of 2022.

17 THE COURT: Has Mr. Servis consented to that?

18 MS. GLAVIN: I have talked to him about it. He knows
19 about it and I will go back and discuss it with him again today
20 but we have discussed and he is well aware of the issues.

21 THE COURT: Mr. Baum, what is your client's position?

22 MR. BAUM: I have spoken to Mr. Chan about it and he
23 consents to postpone the case until Mr. Servis and his counsel
24 are available for trial.

25 THE COURT: All right.

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1 Ms. Colson?

2 MS. COLSON: Your Honor, I am here on behalf of
3 Ms. Garcia. I have trial beginning on June 13th in front of
4 Judge Furman, the case no. is 17 CR 548.

5 THE COURT: Give me just one second. June 13th?

6 MS. COLSON: June 13th, before Judge Furman. The case
7 number is 17 CR 548, it is United States v. Josh Schulte, it is
8 an incarcerated defendant, he has been incarcerated for several
9 years. It is a re-trial of a case that was tried before Judge
10 Furman right before the pandemic. There is lengthy and
11 complicated CIPA litigation that still needs to take place and
12 will be happening over the next couple of months so I do think
13 it will be next to impossible for me to try Ms. Garcia's case
14 in the second quarter of this year.

15 We are prepared -- I have spoken with Mr. Rollock and
16 we are prepared to go to trial as early as September. I am
17 asking for a September date because, like Ms. Glavin, I am also
18 a solo practitioner and we need time to get up to speed after I
19 complete the trial in front of Judge Furman.

20 THE COURT: Mr. Rollock?

21 MR. ROLLOCK: Yes, Judge. I, too, have a bunch of
22 state trials that are scheduled, incarcerated the defendants.
23 Obviously the Court knows that state courts have been very slow
24 but now they're starting to open up; I just finished a trial
25 this past week. So based upon the number of trials I have to

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1 do for these incarcerated clients, I figure I will be tied up
2 until July.

3 THE COURT: Do you consent, though, to Ms. Colson's
4 request that we put your group over to September?

5 MR. ROLLOCK: Yes, Judge. That would be fine. And
6 I'm a solo practitioner too.

7 THE COURT: So all counsel are consenting to the
8 exclusion of time between now -- and for Mr. Garcia and
9 Mr. Tannuzzo until the third quarter?

10 MR. ROLLOCK: Yes.

11 THE COURT: And for Mr. Servis and Mr. Chan, you are
12 consenting to the exclusion of time on their behalf until the
13 first quarter of 2023?

14 MR. BAUM: Yes, your Honor.

15 MS. GLAVIN: Yes, your Honor.

16 THE COURT: I would like something in writing on the
17 docket to that effect from all counsel for what you have
18 requested from me.

19 MS. GLAVIN: Yes, your Honor.

20 THE COURT: And I think, as I say, I don't know what
21 slots we are going to be allocated in any event for the second
22 quarter, but I am telling you now, I will -- we will talk in a
23 minute about how we are going to handle control dates and all
24 because I obviously need a date for actually excluding time,
25 but I will put in the requests as you have asked for; for the

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1 group 3 will be September, for the group 4 will be first
2 quarter of 2023, and there will be no slippage, those are firm,
3 so you need to let other Courts, other Judges know you are
4 committed.

5 Mr. Fasulo?

6 MR. FASULO: Judge, so seeing where we are at, I had a
7 conversation with the Court regarding May and June, which are
8 fine for me and I know that the Court put in for second quarter
9 slots. If in fact we do get a second quarter slot as the
10 primary case, I would request the Court to put us into that
11 slot, only because getting ready for both trials now, even
12 though it is a re-trial, I am now focusing on the other case.
13 It would really behoove me a lot to just kind of be organized
14 and be able to finish that and go into the Giannelli case at
15 that time.

16 So I don't know what is going to happen but if we do
17 get a slot in the second quarter, I would like to grab it and
18 be in rather than waiting to see last minute.

19 THE COURT: All right. I will tell you -- you can
20 stay seated. I will tell you that given the timing of this
21 case relative to the other cases that are backlogged and the
22 fact that all of your clients are out, the likelihood that we
23 are going to get a first slot is slim. Having said that, there
24 is encouraging news on the COVID front, as I think you all
25 know, except for people do continue still to get sick. I don't

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1 know that forever the fact that someone gets sick with COVID
2 means you have to have a mistrial. I don't know. There have
3 been discussions in the court house about easing some of the
4 restrictions but we are not there yet.

5 I'm not yet authorized to hold any criminal trials in
6 this courtroom because, as you can see from the jury box, there
7 is just not enough room for jurors to be spaced out according
8 to the current guidelines which is still six feet. If we reach
9 certain metrics, that may reduce to three feet and then maybe I
10 can do civil trials here. I'm told we need plexiglass, though,
11 because we failed some parts of the so-called smoke test about
12 the way the wind blows. I mean, you couldn't write this script
13 for what we are dealing with here, you really couldn't. But,
14 we are where we are. Maybe by the time we get to September and
15 by the time we get to first quarter of next year we will be
16 back to life more normal. That is certainly my hope.

17 I will let you know, Mr. Fasulo, what dates we get
18 assigned as soon as the second quarter calendar comes out. If
19 you are waiving the speedy trial rights on behalf of
20 Ms. Giannelli, I will release the March 21st date.

21 MR. FASULO: Yes, Judge.

22 THE COURT: Now, Mr. Chow, I assume there is no
23 objection o from the government to any of this? As you have
24 recognized, we are dealing with these COVID restrictions that I
25 can't do anything about.

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1 MR. CHOW: So for Ms. Giannelli, the answer is no
2 objection from the government, we can release the March 21st
3 date. I think having heard Mr. Fasulo's circumstances,
4 especially with a trial the following week that he must prepare
5 for that probably is, between the two, more likely to go given
6 that his defendant is in --

7 THE COURT: Yes.

8 MR. CHOW: -- that certainly makes sense.

9 I think for the remaining schedule your Honor has
10 expressed that defense counsel will put in a letter on the
11 record. If I could just reserve our response and should the
12 government have any response we will put in the letter right
13 after?

14 THE COURT: You can reserve your response but I am
15 telling you if they are waiving speedy trial rights on behalf
16 of their clients and have other commitments --

17 MR. CHOW: Yes, I understand. It is going to be very
18 difficult for us to, you know, come up with anything but --

19 THE COURT: I also believe, having firm dates that we
20 are all planning towards facilitates everything being done more
21 efficiently and more orderly.

22 MS. GLAVIN: Your Honor, may I have a moment with the
23 AUSA?

24 THE COURT: Yes. Sure.

25 (Counsel conferring)

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1 MR. FASULO: Judge, if I may, while they're having a
2 brief conversation?

3 THE COURT: Yes.

4 MR. FASULO: I will still let the Court know what
5 happens to my March date, obviously.

6 THE COURT: I appreciate that, but it is not going to
7 be grounds for not going forward in the slots we have.

8 MR. FASULO: No.

9 THE COURT: OK.

10 MR. FASULO: Either that case is going to go away or
11 be tried in March and we haven't been told we are going to the
12 next quarter, and I already have your Honor telling me that we
13 will have date in next quarter. That was not my point. My
14 point is I will let you know anyway.

15 THE COURT: Thank you.

16 MR. FASULO: Ms. Giannelli does have to make
17 arrangements again --

18 THE COURT: I know, but she lives in Delaware. It is
19 kind of short --

20 MR. FASULO: -- the logistics of it.

21 THE COURT: I had a trial once in Delaware and
22 commuted daily so it is not undoable.

23 MR. FASULO: It is like me going to Long Island,
24 Judge. It is not impossible.

25 THE COURT: Anything?

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1 MR. CHOW: Your Honor, let me rephrase the
2 government's position.

3 The government consents to the setting of the dates as
4 proposed by defense counsel and the Court. The government's
5 concern, as always, is making sure this case proceeds in an
6 expeditious manner in order to protect the interests of the
7 public in a speedy trial, as well as the various victims and
8 witnesses associated with this case, and so what I meant by we
9 may want to put in something is just to ensure that the
10 whatever dates we are assigned or eventually hopefully are
11 selected by Court, that those are in fact hard and fast dates
12 and we will, in fact, be proceeding on those dates.

13 THE COURT: So, Mr. Chow, I appreciate that. I also
14 appreciate that you are working as part of a team and that your
15 colleagues aren't here today and, in fairness, I have no
16 problem if you wish to confer with your colleagues. Having
17 said that, I share the same interest you do in keeping this
18 case moving and I have tried very hard to do that. This
19 started with 19 defendants, we are down to five who need to be
20 tried so.

21 Given all the circumstances, I do think that what we
22 are talking about is a reasonable proposal. I already said on
23 the record and counsel are on notice that those requested
24 slots, first quarter for Chan and Servis, in 2023, and
25 September, so that's the end of the third or the beginning of

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1 the fourth depending on what they give us for group two, are
2 firm. I will not entertain "*I'm busy and unavailable.*"
3 Everybody is on notice.

4 So the next thing I'm going to leave to counsel to
5 work out is proposing schedules for the exchange of information
6 and all of the pretrial materials in connection with each of
7 these trial groupings that we are talking about. Mr. Fasulo,
8 that puts you up first. You have already done a lot of this so
9 to the extent you are relying on previous submissions you can
10 just say that. I will tell you, we -- and you were not here
11 for the end of the charging conference.

12 MR. FASULO: Yes. I did get the minutes, Judge.

13 THE COURT: So you have the charges that I gave. To
14 the extent you have objections to them you might want to work
15 off of that. I will tell you, in all candor, that in charging
16 that jury I found those charges, which were largely proposed by
17 the parties worked out and negotiated, I found them somewhat
18 repetitive and I intend to streamline them.

19 MR. FASULO: Very well. We will work with the
20 government and see if we can come up with a more streamlined
21 charge on that.

22 THE COURT: Yes.

23 MR. FASULO: In addition, I did have some initial
24 conversations with the government regarding their witnesses --
25 maybe slightly different -- and disclosures, and I think we can

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1 work a schedule out with the government. I am not really
2 concerned about that. I have a lot of the 3500 material. I do
3 know they have some additional witnesses and they promise to
4 get that material to me in advance of trial date which should
5 be sufficient seeing that I have already prepared witnesses
6 already.

7 THE COURT: OK.

8 MR. FASULO: So I think we are in good shape in terms
9 of those applications and I don't think there are any pretrial
10 applications that I can envision at this time based on where we
11 were at in the last trial.

12 THE COURT: So unless you are talking about newly
13 produced materials --

14 MR. FASULO: No. New 3500 material based on witnesses
15 that --

16 THE COURT: Yes. But what I was going to say is that
17 unless there is any new issues or discovery, you have already
18 filed your *in limine* motions.

19 MR. FASULO: I was going to say I don't think there is
20 anything that is going to come up. My point is there is
21 nothing that I see, unless something comes up in the 3500 that
22 we need to deal with on an evidentiary basis.

23 THE COURT: Yes.

24 MR. FASULO: Other than that, I think we would be
25 ready to swing into place.

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1 THE COURT: So each of the other two groups, if you
2 would please coordinate with the government, agree upon
3 schedules for the exchange of information, and propose to the
4 Court a schedule for submission of *in limine* motions, proposed
5 jury instructions, verdict forms, and those sorts of things on
6 a reasonable schedule. You have enough lead time and that
7 doesn't take a huge amount of time for you to agree on the
8 schedule. I would like you to do that and get it on file and I
9 will sign off on those, just so that we are all clear and we
10 are ready to go.

11 Now, the final thing that I think we really need to
12 talk about then is I think for each trial we ought to -- each
13 grouping, we ought to have a control date. We can continue do
14 it as a joint date but, frankly, if we are talking about moving
15 forward first with the Giannelli trial I don't know that you
16 all need to come in for a control date conference in connection
17 with that. We can set see three separate control dates and
18 exclude time or we can keep doing it *seriatim* in case there are
19 developments we should talk about. I am open to what you all
20 propose.

21 MS. GLAVIN: Your Honor, I would simply propose with
22 respect to Mr. Servis a control date of January -- say January
23 15, 2023, and I think if time is excluded with respect to one
24 defendant in a multi-defendant case it is excluded for all.

25 THE COURT: Is that accurate?

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1 MR. CHOW: That is true.

2 THE COURT: I think, though, January 15th is too late
3 because you might be trying the case on January 4th, so I think
4 we need to do a control date sometime towards the end of the
5 fourth or middle of the fourth quarter.

6 MS. GLAVIN: Your Honor, that gives the Court the
7 extra time if we don't get the 4th, we are through to the 15th.
8 So if the 4th comes up.

9 THE COURT: You are talking about for exclusion of
10 time, not for conference.

11 MS. GLAVIN: Yes.

12 THE COURT: Is that acceptable to everyone, that time
13 for all defendants will be excluded from now to January 15th of
14 2023?

15 Mr. Fasulo? You might be tried before then.

16 MR. FASULO: Yes. It is -- Judge, I see the purpose.
17 I am willing, yes, I understand that and I am OK with that. I
18 would like just to confirm with my client.

19 MR. ROLLOCK: I consent, Judge.

20 MR. FASULO: I consent, Judge. I'm fine with that.

21 THE COURT: Ms. Colson?

22 MS. COLSON: I consent. Thank you.

23 THE COURT: Thank you Mr. Rollock.

24 Mr. Baum?

25 MR. BAUM: No objection, your Honor.

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1 THE COURT: Ms. Glavin?

2 MS. GLAVIN: No objection.

3 THE COURT: Mr. Chow, is the government so moving?

4 MR. CHOW: The government so moves.

5 THE COURT: So on the motion of the government, with
6 consent of all defendants, I am going to exclude all time
7 between now and January 15th of 2023. I do find that the
8 interests of justice served by the exclusion of such time
9 outweighs the interest of the individual defendants and the
10 public in a speedy trial as it does allow for the orderly
11 organization of proof and grouping of the various defendants
12 for trial, the exchange of information that needs to take place
13 in preparation for each of the three trials that we are
14 contemplating, for the parties should they wish to do so to
15 engage in any conversations about consensual disposition of the
16 charges.

17 Now, Mr. Fasulo, once we get a date for the next
18 quarter I will set pretrial conference and charging conferences
19 and those sorts of things. I think that for the sake of good
20 order we should set a further conference with respect to the
21 remaining four defendants, though, since we may have a trial as
22 early as September. I will propose that we conference the case
23 sometime towards the end of June or early July.

24 Does that make sense?

25 MR. CHOW: Yes, your Honor.

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1 THE COURT: Any objection?

2 MR. BAUM: No objection.

3 MS. GLAVIN: No objection.

4 MS. COLSON: No objection.

5 MR. FASULO: No objection.

6 MR. ROLLOCK: No objection.

7 THE COURT: I will take a look at my calendar and get
8 an order on file.

9 Is there anything else that we can accomplish?

10 Mr. Chow?

11 MR. CHOW: No, your Honor.

12 THE COURT: Ms. Glavin?

13 MS. GLAVIN: No, your Honor. Good to see you.

14 THE COURT: You too.

15 Mr. Baum?

16 MR. BAUM: No, your Honor. Good to see you.

17 THE COURT: Nice to see you as well.

18 Ms. Colson?

19 MS. COLSON: No. Thank you very much.

20 THE COURT: You are very welcome.

21 Mr. Fasulo?

22 MR. FASULO: One thing, Judge. Just in terms of my
23 trial schedule in U.S. v. Velez, I think by the end of this
24 week it will be firmly either we are definite or there may
25 be -- you never know with the case that it could resolve

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1 itself. I don't anticipate that but I will know a clearer
2 vision probably by the end of Friday and I will let the Court
3 know.

4 THE COURT: I appreciate that but you are asking me to
5 release the date.

6 MR. FASULO: I said that because I am starting to get
7 ready for that trial but I want to be transparent because if
8 something happens, I don't want to be in the position that we
9 didn't have this conversation and I just --

10 THE COURT: OK. I appreciate that but --

11 MR. FASULO: I would rather release that date because
12 I think it is better for the Government and us to have a firm
13 date and I can focus.

14 THE COURT: Yes. It is also better for people doing
15 central scheduling, so if I release the date it is gone.

16 MR. FASULO: No, I am fine with that, Judge.

17 THE COURT: OK.

18 MR. FASULO: I wanted to be clear with the Court that,
19 as you know, we don't know for sure --

20 THE COURT: Yes.

21 MR. FASULO: -- and I am getting a feeling like, you
22 know.

23 THE COURT: I appreciate your candor, Mr. Fasulo, but
24 no problem with that.

25 MR. FASULO: OK. Thank you.

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1 THE COURT: I did not ask you, Mr. Rollock; anything
2 further?

3 MR. ROLLOCK: No thank you, Judge.

4 THE COURT: It is good to see you all. Everybody be
5 safe and be well. We are adjourned.

6 Thank you to our court reporter.

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